

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 15 CR 515
v.	)	
	)	Judge John Z. Lee
	)	
	)	
BABAJAN KHOSHABE and	)	
ANTHONY KHOSHABE	)	

**FINAL PRETRIAL ORDER**

The UNITED STATES OF AMERICA, by JOHN R. LAUSCH, JR., United States Attorney for the Northern District of Illinois, and BABAJAN KHOSHABE, by his attorneys DAMON CHERONIS and RYAN LEVITT; and ANTHONY KHOSHABE, by his attorneys PATRICK BLEGEN, ROBERT STANLEY, and TODD PUGH, respectfully submit the following Proposed Pretrial Order.

**I. MATTERS PREVIOUSLY RESOLVED**

As the Court is aware, this matter was originally set for trial on June 4, 2018. D.E. 276. Pursuant to the Court's pretrial scheduling order, D.E. 283, on March 27, 2018, the parties submitted to the Court a joint proposed pretrial order via the Court's Proposed Order mailbox. The parties also filed several motions *in limine*, four of which apply to defendants Babajan and Anthony Khoshabe. D.E. 284, 289, 323, and 324. On May 29, 2018, the Court severed defendants Babajan Khoshabe and Anthony Khoshabe from the June 4, 2018, trial, D.E. 328 and 332, and later reset their joint trial for November 4, 2019, D.E. 433. Before severing the defendants and resetting their trial date, the Court ruled on the pending motions *in limine*. As pertinent here:

- The Court partially GRANTED the government's motion [284] to admit evidence of defendant Rossini's 2012 arrest, as well as defendants Babajan and Anthony Khoshabe's payment of Rossini's bond that was reimbursed with victim funds. D.E. 328. More specifically, the Court ruled:

The Government may introduce evidence that Albert Rossini was arrested and that Rossini's codefendants coordinated and agreed with one another to post Rossini's bond with knowledge that the bond money was to come out of investor funds. The Government may not make reference to the charges underlying the arrest, and the Court will instruct the jury that the arrest was for events unrelated to the charges in this case and that the jury should not consider the fact of Rossini's arrest in reaching their verdict in this case.

*Id.* at 2.

- The Court partially GRANTED the government's motion [289] to permit impeachment under Rule 609 based on certain of defendant Rossini's prior convictions. D.E. 328, at 2. In light of Babajan Khoshabe's severance from the trial, however, the Court ultimately did not rule on the government's motion to allow impeachment of Babajan Khoshabe based on his mail fraud conviction. *Id.*

- The Court DENIED defendant Anthony Khoshabe's motion [323] to preclude the government from introducing tax return evidence. D.E. 333.

- The Court GRANTED the government's' motion to admit co-conspirators statements pursuant to its *Santiago* proffer [324]. This ruling was made orally on June 5, 2018, during the trial of defendant Rossini:

"So based upon the Santiago proffer provided by the government and the record that I have in this case, the Court finds that the government has shown that it

is more likely than not that the conspiracy existed regarding the scheme as to the real estate notes as alleged by the government; that Albert Rossini, Babajan Khoshabe, and Anthony Khoshabe were members of the conspiracy; that the hearsay statements described by the government -- were offered by the government in their motion -- and I want to be specific here -- on page 22 of their Santiago proffer were made; and the statements were made in furtherance of the conspiracy. Now, I will note that the statements provided - identified by the government are of a general nature. But with regard to those categories that are set forth in the government's Santiago proffer at 22, I do find that they all qualify as statements in furtherance of the conspiracy; however, obviously with regard to any individual statements, if there are any objections as we go along in that regard, the defendants can raise that."

(6/5/2018 Tr., at 200-201.)

So that the record is clear, Anthony Khoshabe maintains his objections to the Court's rulings set forth above. With regard to the *Santiago* ruling, Anthony Khoshabe reiterates that much of the evidence set forth in the government's *Santiago* proffer is contradicted by the government's own witnesses or by agents' notes of witness interviews, including an interview of Anthony Khoshabe. Anthony Khoshabe also renews his request (D.E. 329) for the government to provide a list of coconspirator statements it seeks to admit against him, and to list the individuals it deems to be coconspirators.

## **II. STATEMENT OF THE CASE**

This is a criminal case. The indictment in this case charges Babajan Khoshabe and Anthony Khoshabe with eleven counts of mail and wire fraud, twelve counts of money laundering, and one count of conspiracy to commit money laundering. Babajan Khoshabe and Anthony Khoshabe have each pled not guilty to the charges.

### **III. WITNESS LIST**

#### **A. Government's Witness List**

The government's preliminary list of potential witnesses is below. This list includes those individuals whom the government expects to call as well as other individuals whom the government may call if necessary. The government reserves the right to call any additional witness whose testimony is necessitated by further information developed before or during the course of the trial, as well as rebuttal witnesses, if necessary. Potential witnesses:

1. Robert Badalian
2. Albert Khamis
3. Kathy Khodi
4. Janet Khoshaba
5. Fereidoon Khoshabe
6. Vladimir Moghaddasi
7. Fidel Moshi
8. Nastors Moshi
9. Ashoor Pithyou
10. Rev. Awiquam Pithyou
11. Ibrahim Yousif
12. Rev. Ninos Younan
13. Thomas Murphy
14. Francisco Cisneros
15. Lisa Rosen
16. Pamela Sauer
17. Myra Zepeda
18. Meir Rotstein
19. Aida Roldan
20. Jody Blau, Special Agent, FBI
21. Margaret Buckley, Forensic Accountant, FBI
22. Kelly Connors, Special Agent, FBI
23. Michael Gorman, Special Agent, HUD-OIG
24. Lyle Evans, Special Agent, FBI (retired)
25. Kevin Graff, Task Force Officer, Cook County Sheriff
26. Michael Gorman, Special Agent, HUD-OIG
27. Paul Martinez, Task Force Officer, Cook County Sheriff
28. Various Records Custodians, in the event the parties cannot agree to stipulations

29. Various Property Owners, in the event the parties cannot agree to stipulations

**B. Defendants' Witness Lists**

*Anthony Khoshabe*

Defendant Anthony Khoshabe may call the following witnesses in his case-in-chief. Mr. Khoshabe reserves the right to add additional witnesses based on the defense's continuing investigation, as well as the cases-in-chief of the Government and/or codefendant. To the extent the government does not call a particular witness on its witness list, Mr. Khoshabe reserves the right to call that witness in his case in chief.

- 1) Ramtin Jalalpour
- 2) Armita Khoshabe
- 3) Fereidoon Khoshabe
- 4) Melinda Khoshabe
- 5) Melita Khoshabe
- 6) Steve Khoshabe
- 7) Jeff Perelman
- 8) Jason Schiffman
- 9) Craig Shaffer
- 10) Angel Yousif
- 11) Danny Yousif
- 12) Representative from the SEC

*Babajan Khoshabe*

As of the filing of this order, Babajan Khoshabe has not submitted a proposed witness list.

#### **IV. EXHIBIT LIST**

##### **A. Government Exhibit List**

The government's preliminary list of potential exhibits list is attached as Exhibit 1. The government reserves the right to modify and update this list as it prepares for trial.

As of the filing of this order, defendants have not submitted objections to the government's preliminary exhibit list.

##### **B. Defendants' Exhibit Lists**

*Anthony Khoshabe*

The following list represents the exhibits Defendant Anthony Khoshabe may introduce into evidence in his case-in-chief. Mr. Khoshabe reserves the right to introduce any exhibits identified by the Government in the pretrial submission that it does not ultimately introduce at trial. Further, Mr. Khoshabe reserves the right to add additional exhibits based on the Government's Santiago Proffer, the case-in-chief of the Government and other defendants. Mr. Khoshabe may also seek to admit any of the exhibits on the government's witness list for this trial or on the government's exhibit list for the trial of Mr. Rossini.

- 1) Complaint submitted to the Securities and Exchange Commission.
- 2) Email from Anthony Khoshabe to Albert Rossini, Thomas Murphy, and Babajan Khoshabe on May 24, 2012.
- 3) Email to Philip Cowan on May 22, 2012.
- 4) Property Check List
- 5) Reliant Management On-Site Duties

- 6) Documents related to 4037 West Adams
- 7) Guarantee Agreement for 2459 West Filmore
- 8) Guarantee Agreement for 3152 West Diversey.

*Babajan Khoshabe*

As of the filing of this order, Babajan Khoshabe has not submitted a proposed exhibit list.

**V. JURY INSTRUCTIONS AND VERDICT FORMS**

**A. Government's Proposed Jury Instructions and Verdict Forms**

The government's proposed jury instructions and verdict forms are attached as Exhibit 2.

Defendant Anthony Khoshabe's objections to the government's instructions are attached as Exhibit 3.

**B. Defendants' Proposed Jury Instructions and Verdict Forms**

*Anthony Khoshabe*

- 2.04 - number of witnesses
- 3.02 - proper to interview witnesses
- 3.03 - prior inconsistent statements of witnesses
- 3.05 - special caution for witnesses
- 3.08 - character evidence re: defendant
- 3.09 - statement of defendant
- 4.06 - separate consideration re: counts
- 4.07 - separate consideration re: defendants
- 5.07(b) & 5.07(c) - mere presence

- 6.10 - good faith
- Potential instructions related to tax returns

The government objects to instructions 5.07(b), 5.07(c), and 6.10.

## **VI. STIPULATIONS**

As of the filing of this order, the government has provided the defendants 43 proposed stipulations of uncontested facts and will likely propose additional stipulations during the course of trial preparation. The defendants are reviewing the government's proposals, and the parties anticipate reaching agreement on a number of stipulations and will continue to confer about this matter in preparation for the pre-trial conference.

Respectfully submitted,

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